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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/690,940	10/18/2000	Dean F. Boyer	OHB-0047	5015
7590 01/06/2009				
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EXAMINER				
MAGUIRE, LINDSAY M				
ART UNIT		PAPER NUMBER		
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01/06/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: DEAN F. BOYER and W. EDWARD HAMMERSLA III

Application No. 09/690,940
Technology Center 3600

Mailed: 6 January 2009

Before LAWRENCE J. BANKS *Paralegal Specialist*
BANKS, *Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on December 12, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S ANSWER, EVIDENCE RELIED UPON

Section §1207.02 of the *Manual of Patent Examining Procedure* (MPEP) (Eighth Edition, Rev. 6, September 2007) states:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

....

- (8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and in the case of nonpatent references, the relevant page or pages.

The Examiner's Answer mailed August 6, 2008, is deficient because the "Evidence Relied Upon" section fails to include the reference(s) Sackler (US Pat No. 5,235,507) cited on page(s) 11-16 in the Examiner's Answer's grounds of rejection of claims 53, 57-59, 63-66, 72, 75-77, 80-82, 84-86, 91, and 99-111 rejected under 35 USC § 103(a).

Appropriate correction is required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) issue a PTO-90 citing the missing references listed under the Evidence Relied Upon section, paragraph (8); and
- 2) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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